S.B. CIVIL MISC. APPEAL NO.1600/2007
(Balchand Kadwani Vs. Hanuwant Singh & ors.)

Date of Order :: 30th July 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.S.K.Sankhla for the appellant

In a vehicular accident that occurred on 31.03.1999, the appellant, said to be then about 49 years of age, sustained one grievous injury that of fracture of lower end of right radius bone as noticeable from the X-ray report placed for perusal by learned counsel for the appellant. The claim for compensation was made by the appellant on 15.01.2004. The Tribunal has noticed sum total of the bills of medical expenditure produced by the appellant at Rs.39/- and has allowed Rs.100/- towards treatment and other incidental expenses. The Tribunal has further allowed Rs.2,000/- towards special diets and Rs.9,000/- towards pain and suffering and in this manner has made award of compensation in the sum of Rs.11,100/- and has allowed interest at the rate of 7.5% per annum from the date of filing of claim application i.e., 15.01.2004. In this appeal the claimant seeks to assail the award as being low and inadequate.

Alongwith the appeal, the claimant-appellant has also filed an application under Order 41 Rule 27 CPC; and while

filing certain pathological reports, prescription slips, and bills of chemists, and fruit and milk vendors, it has been suggested that treatment of the appellant is continuing yet.

Having heard learned counsel for the appellant and having gone through the material placed on record, this Court is clearly of opinion that this appeal remains bereft of substance.

Though the amount of compensation in the sum of Rs.11,100/- appears to be rather on the lower side but when examined in the context of the facts that it were a fracture of lower end of radius; that the appellant had incurred medical expenditure to the tune of Rs.39/-; that there is no evidence concerning loss of earning capacity; and that the claim for compensation was made nearly 5 years after the accident, this Court is of opinion that the award of compensation as made by the Tribunal, though moderate, does not call for interference at the instance of the appellant.

It is noticeable from the documents attempted to be placed on record by way of the application under Order 41 Rule 27 CPC that first one is a blood examination report in the name of Bal Chand whose age has been stated at 80 years. Either the said document does not relate to the appellant or the appellant has not stated his age correctly. Then, the prescription slips and so also the medical bills are difficult to

be co-related with the injury sustained in the accident. The appellant has gone to the extent of filing a report for lipid profile, as made on 26.05.2007 for the purpose of this claim case. The documentary evidence sought to be produced seems to be entirely irrelevant for this claim for compensation with reference to the injury sustained in the accident.

In the overall circumstances of the case, there does not appear any reason to consider any enhancement in this case.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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